

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

WILLIE FRANT WRIGHT, JR.,	:	
	:	
Petitioner,	:	
	:	No. 5:15cv-423 (CAR)
v.	:	28 U.S.C. § 2254
	:	
Warden, GLEN JOHNSON,	:	
	:	
Respondent.	:	
	:	
_____	:	

**ORDER ON REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Before the Court is the Recommendation of the United States Magistrate Judge [Doc. 32] to dismiss Petitioner Willie Frank Wright, Jr.’s Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 because Petitioner’s state conviction is not final and is still pending in state court. Petitioner filed an Objection to the Recommendation [Doc. 36]. Although the Objection was untimely, the Court will consider the Objection as timely-filed and make a *de novo* determination of the portion of the Recommendation to which Petitioner objects. Having done so, the Court finds Petitioner’s Objection fails to counter the findings and conclusions of the Recommendation.

Plaintiff contends the delay in resolving his conviction in state court is not the result of his actions, as the Recommendation sets forth, but is the result of the state

court's failure to provide him with complete transcripts of his case. Thus, Petitioner contends he should not be forced to wait for his state remedies to be exhausted to have his federal habeas petition decided. Petitioner's argument is unconvincing. As the Recommendation sets forth, a state court's unreasonable, inexplicable, or inordinate delay in finalizing its relief may waive a petitioner's failure to exhaust. As the Recommendation thoroughly explains, those circumstances are not present in this case. The delay in this case is attributable to the Petitioner, not the state court.

Thus, the Report and Recommendation is **HEREBY ADOPTED AND MADE THE ORDER OF THIS COURT**. Respondent's Motion to Dismiss [Doc. 25] is **GRANTED**, and the Petition for Writ of Habeas Corpus [Doc. 1] is **DISMISSED for failure to exhaust**. Additionally, because Petitioner has failed to make a substantial showing of the denial of a constitutional right, a certificate of appealability is **DENIED**.

It is **SO ORDERED** this 25th day of July, 2017.

S/ C. Ashley Royal
C. ASHLEY ROYAL, SENIOR JUDGE
UNITED STATES DISTRICT COURT